

ARTHUR J. MESSBAUER

IBLA 81-885

Decided October 26, 1981

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease offer U-44732.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings

Where a drawing entry card form of offer to lease a parcel of land for oil and gas is prepared by a person or corporation having discretionary authority to act on behalf of the named offeror, and the offer is signed by such agent or attorney-in-fact on behalf of the offeror, the requirements of 43 CFR 3102.6-1 apply, so that separate statements of interest by both the offeror and the agent must be filed, regardless of whether the agent signed his principal's name or his own name as his principal's agent or attorney-in-fact, and regardless of whether the signature was applied manually or mechanically.

APPEARANCES: William M. King, Esq., Austin, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Arthur J. Messbauer appeals from a decision dated July 2, 1981, of the Utah State Office, Bureau of Land Management (BLM), rejecting his simultaneous oil and gas lease offer U-44732.

Appellant's offer was drawn with first priority for parcel No. UT-88 in the November 1979 drawing. On January 15, 1980, BLM requested additional evidence concerning the preparation of the offer and the affixing of appellant's facsimile signature to the drawing entry card. In response to this request, BLM received a copy of a

service contract between appellant and Leland Capital Corporation (Leland). The terms of this contract state that Leland would provide its advisory services "in connection with," and would file 72 filings during a two-month period "pursuant to LCC's Federal Oil Land Acquisition Program."

Based on these facts, BLM concluded that Leland was acting as an agent for Arthur J. Messbauer. The effect of such agency, BLM further concluded, was to require that appellant's offer be accompanied by certain statements referred to in 43 CFR 3102.6. Failure to accompany his offer with such statements caused rejection of appellant's offer.

[1] Regulation 43 CFR 3102.6-1(a)(2) (1979) stated:

(2) If the offer is signed by an attorney in fact or agent, it shall be accompanied by separate statements over the signatures of the attorney-in-fact or agent and the offeror stating whether or not there is any agreement or understanding between them or with any other person, either oral or written, by which the attorney in fact or agent or such other person has received or is to receive any interest in the lease when issued, including royalty interest or interest in any operating agreement under the lease, giving full details of the agreement or understanding if it is a verbal one. The statement must be accompanied by a copy of any such written agreement or understanding. If such an agreement or understanding exists, the statement of the attorney-in-fact or agent should set forth the citizenship of the attorney-in-fact or agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers including options for such leases or interest therein exceed 246,080 acres in any one State, of which no more than 200,000 acres may be held under option, or exceeds the permissible acreage in Alaska as set forth in § 3101.1-5. The statement by the principal (offeror) may be filed within 15 days after the filing of the offer. [1/]

1/ This regulation was revised effective June 16, 1980. 45 FR 35162 (May 23, 1980). It presently reads as follows:

"§ 3102.2-6 Agents.

"(a) Any applicant receiving the assistance of any other person or entity which is in the business of providing assistance to participants in a Federal oil and gas leasing program shall submit with the lease offer, or the lease application if leasing is in accordance with subpart 3112 of this title, a personally signed statement as to any understanding, or a personally signed copy of any written agreement or contract under which any service related to Federal oil and gas leasing or leases is authorized to be performed on behalf of such applicant. Such agreement or understanding might include, but is not limited to:

The service agreement here before us has been considered by the Board in several cases. In these cases the Board held that the statements pursuant to 43 CFR 3102.6-1 were required to be filed with the offers. See J. Eugene Meyer, 57 IBLA 124 (1981); D. R. Gallagher, 54 IBLA 72 (1981); Carolyn W. Laeser, 53 IBLA 336 (1981).

The statement of reasons filed in the case at bar makes the identical arguments that were advanced in the earlier cases. In those decisions the Board considered all of counsel's contentions in detail and disposed of them with ample citations of authority. See Gallagher, supra at 74-75. No purpose would be served by repeating that discussion here.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

fn. 1 (continued)

a power of attorney; a service agreement setting forth duties and obligations; or a brokerage agreement. (b) Where a uniform agreement is entered into between several offerors or applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section. A list setting forth the name and address of each such offeror or applicant participating under the agreement shall be filed with the proper Bureau of Land Management office not later than 15 days from each filing of offers, or applications if leasing is in accordance with subpart 3112 of this title."

